

**ARKANSAS COURT OF APPEALS**

DIVISION IV  
 No. CACR08-905

CHARLES T. BAGLEY

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** April 22, 2009

APPEAL FROM THE SEBASTIAN  
 COUNTY CIRCUIT COURT, FORT  
 SMITH DISTRICT  
 [NOS. CR-04-1111; CR-06-79]

HONORABLE J. MICHAEL  
 FITZHUGH, JUDGE

REBRIEFING ORDERED

**JOHN MAUZY PITTMAN, Judge**

This is an appeal from the revocation of appellant's suspended imposition of sentence. There was testimony that appellant was subject to a suspension order conditioned upon, among other things, his having no offensive contact with the victim and requiring him to pay a fine and various fees. The State filed a petition to revoke alleging that appellant had violated the conditions of his suspended sentence. After a hearing, the trial court found that appellant had violated those conditions, revoked his suspension, and sentenced him to a term of imprisonment. Appellant argues that the revocation is not supported by sufficient evidence of a violation. We order rebriefing.

Arkansas Supreme Court Rule 4-2(a)(8) requires that the appellant submit an addendum containing all the relevant orders, pleadings, documents, and exhibits in the record that are essential to an understanding of the case. Appellant has failed to include in the

addendum the order containing the conditions of his suspension or the subsequent modification of those conditions. As such, we cannot tell what contact with the victim was prohibited, or the amount of the fine, or if there were any other violations proven at the hearing that would support the revocation. The latter is especially important because the appellant bears the burden of showing he suffered prejudice to gain a reversal, *Berna v. State*, 282 Ark. 563, 67 S.W.2d 437 (1984), and it is necessary only to show that a single condition has been violated to sustain an order of revocation. *See Ross v. State*, 22 Ark. App. 232, 738 S.W.2d 112 (1987).

For these reasons, we have long held that the suspension or probation order and its terms or conditions are essential to our review of a revocation order based on a finding that those terms had been violated, and that those items must therefore be included in the abstract or addendum. *See, e.g., Taylor v. State*, 63 Ark. App. 82, 973 S.W.2d 840 (1998). An order cannot be reviewed for error when the addendum fails to include the documents on which the order was based. *Bryan v. City of Cotter*, \_\_\_ Ark. \_\_\_, \_\_\_ S.W.3d \_\_\_ (April 2, 2009). In accord with the bright-line rule enunciated by the *Cotter* court requiring rebriefing where essential materials have been omitted from the abstract and appendix, we allow appellant fifteen days from the date of this opinion in which to file a substituted brief, abstract, and addendum to cure any and all deficiencies, at his own expense. *See Ark. Sup. Ct. R. 4-2(b)(3)*. In the event that appellant fails to file a complying brief within the requisite time period, the judgment may be affirmed for noncompliance with the rule. *See id.*

Rebriefing ordered.

ROBBINS and GRUBER, JJ., agree.